THE GETTYSBURG RESERVATION. — In one of his first opinions at Washington Mr. Justice Peckham has had an opportunity of showing how he deals with cases which call for a decision as to the constitutionality of a statute. At the present day when there seems to be a tendency to forget that the courts have only a limited power in dealing with acts of the legislature, it is a matter of some significance that the latest member of the Supreme Court should assume a conservative, discriminating attitude, and should declare, as did the earliest interpreters of the Constitution, that the court should interfere only in a clear case. The duty and the discretion of making laws has been intrusted to the legislature, and an act, said Mr. Justice Peckham, "is presumed to be valid unless its invalidity is plain and apparent. No presumption of invalidity can be indulged in. It must be shown clearly and unmistakably." (*United States* v. *Gettysburg Electric Ry. Co.*, 16 Sup. Ct. Rep. 427.)

The question before the court concerned the constitutionality of an Act of Congress providing for the condemnation of portions of the battlefield at Gettysburg and for the erection of tablets to mark the lines of the battle "with reference to the study and correct understanding of the battle." It was objected that there was no clause in the Constitution which gave Congress the right to condemn land for such a purpose, but the court decided that express authority was not necessary. "The power," it was said, "to condemn for this purpose need not be plainly and unmistakably deduced from any one of the particularly specified powers. Any number of these powers may be grouped together, and an inference from them all may be drawn that the power claimed has been conferred." While the result is acceptable, it would seem that the court might have avoided this somewhat unfortunate appearance of making something out of a sum of nothings; the case, it is submitted, might have been put on the broad ground that this falls within those powers which belong to the national government by the very reason of its being a government. In creating the national government, the Constitution necessarily conferred those powers which governments generally possess for their administration and self-protection; and it may well be said that the fostering of a national spirit is a proper function for a government whose strength lies in the loyalty of its citizens. If, however, a specific authority from the Constitution were still called for, the power "to raise and support armies" might well, as the court intimates, include the power to cultivate patriotism and to aid the study of military tactics.

COLLEGE DEGREES — JUDICIAL INTERFERENCE WITH FACULTY ACTION. — The power of college authorities in the matter of granting degrees is generally regarded as absolute. For a disappointed student to take his case to the courts is therefore somewhat surprising. Yet this has occasionally been done, and a comparison of the few decisions is interesting. Curiously enough, the New York Supreme Court has been called upon three times within five years to pass on an application for a mandamus to compel the granting of a degree to a student. In *People* v. *N. Y. Homœopathic Medical College &c.*, 20 N. Y. Supp. 379, and in *People* v. *N. Y. Law School*, 68 Hun, 118, the application was refused, the court remarking, in the latter case, that a college faculty is vested with broad discretion as to the persons to be recommended for a degree, and that the case must be an extraordinary one to justify judicial interference. On